

239284

THE ELECTRIC COOPERATIVES OF SOUTH CAROLINA, INC.

*The Association of South Carolina's Consumer Owned Electric Cooperatives
Which Serve More Than 1.3 Million Citizens*



RECEIVED
SEP 17 AM 11:21
PUBLIC SERVICE

September 14, 2012

Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

**Re: Petition of the Office of Regulatory Staff Requesting a Rule to Show Cause to Mill Creek Marina and Campground, Incorporated and/or Richard B. and Dianne W. Anderson as to Why Mill Creek Marina and Campground, Incorporated Should Not Be Regulated as a Public Utility
Docket No. 2011-479-E**

Dear Mrs. Boyd:

I am writing on behalf of The Electric Cooperatives of South Carolina, Inc., to convey to the Commission our support for the petition for rehearing and reconsideration filed by the Office of Regulatory Staff in the referenced docket. Because of the involvement of Tri-County Electric Cooperative, we have had some familiarity with the facts of the case. We are aware that the Commission was attempting to reach a decision that was fair to the operator of the Mill Creek Campground, who in turn was trying to be fair to his tenants. Nevertheless, as we have reviewed the order in the case and considered its broader implications, we have become concerned about its potential unintended consequences, and we are convinced that the order should be reconsidered.

As we understand Order No. 2012-630, the Commission's ruling turns on its interpretation of S.C. Code Section 58-27-10(7) concerning the definition of "electrical utility." In its petition, ORS contended that Mill Creek was an electrical utility because it was charging its tenants for electricity separately from the rent it charged those tenants. The order holds that because Mill Creek was a landlord and because Mill Creek was providing electricity only to tenants, Mill Creek is not an electrical utility as a matter of law. Under this ruling, it does not matter that Mill Creek was charging its tenants a separate charge for electricity or the amount of the charge: simply because of the landlord/tenant relationship, Mill Creek is not an electrical utility and is not subject to the jurisdiction of the Commission. Under this ruling, neither the provisions of

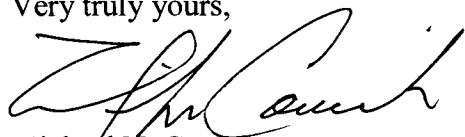


Chapter 27 of Title 58 nor the provisions of Article 3 of the Commission's regulations would apply to the landlord's provision of electricity to his tenants.

We agree with the concerns for the Mill Creek tenants expressed by counsel for Duke Energy Carolinas and Progress Energy Carolinas in the petition to intervene filed on behalf of those companies. We are also concerned about the precedent set by this ruling as described in the petition filed by South Carolina Electric and Gas. Under this interpretation of Section 58-27-10(7), all landlords in South Carolina have the option to begin reselling electricity to tenants in a way that to our knowledge has not previously been allowed. We think this new interpretation could produce significant changes in the retail electricity market in South Carolina. Those changes are potentially significant enough that they should be considered by the General Assembly, either by statutory proposals to clarify the issue or through a rule-making proceeding before the Commission. Either of those alternatives would allow for a full discussion by all affected parties of the ramifications of allowing landlords to resell electricity on an unregulated basis to their tenants.

For these reasons we respectfully request that the Commission grant the petition for reconsideration filed by ORS. Thank you for your consideration of our views.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael N. Couick", written over a horizontal line.

Michael N. Couick
President and Chief Executive Officer

cc: Nanette S. Edwards, Esquire
Robert E. Tyson, Jr., Esquire
William H. Jordan, Esquire
Mr. Brian T. Pearson
Matthew W. Gissendanner, Esquire
Tamika Shafeek-Horton, Esquire